

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

Case #13-CR-6145-FPG

v.

DECISION AND ORDER

ARTHUR LONG,

Defendant.

Title 18, United States Code, Section 3161(h)(1)(H) permits the exclusion of 30 days once a motion is taken “under advisement” by the Court. A motion is taken under advisement “once the court has everything it expects from the parties prior to making its decision.” *United States v. Piteo*, 726 F.2d 50, 52 (2d Cir. 1983); *United States v. Bufalino*, 683 F.2d 639, 642-44 (2d Cir. 1982), *cert. denied*, 459 U.S. 1104 (1983). In this case, that occurred on January 22, 2015, after objections to Magistrate Judge Feldman’s Report and Recommendation and all responding and/or supplemental papers were submitted.

A review of Defendant’s motion papers, the government’s objections and the Defendant’s responding papers is under way, and a decision will be made with reasonable dispatch. It now appears that full consideration of the motions and objections will take time beyond the 30-day advisement period, and “it is...open to...[the court] to find that the interest of justice is best served by granting a continuance under Section 3161(h)(7) for the excess period.” *United States v. Bufalino*, 683 F.2d at 645.

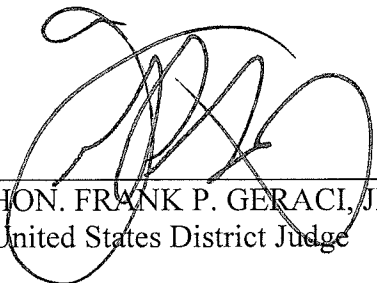
Based upon the Court’s current examination of the several issues presented in the motions, objections, and supplemental *pro se* filings by the Defendant, and further upon my finding that the interest of justice in a continuance outweighs the Defendant’s and the public’s

interest in a more speedy trial, a continuance is granted pursuant to Section 3161(h)(7)(A) until March 20, 2015, for the purpose of rendering a decision.

This Order “puts defense counsel on notice that the speedy trial clock has been stopped,” and it ensures a timely determination, “[i]f for any reason counsel believes that...[an exclusion] is inappropriate, [of] an objection...[timely] raised and [upon] a record made at that time.” *United States v. Tunnessen*, 763 F.2d 74, 78 (2d Cir. 1985); *see also United States v. Kiszewski*, 877 F.2d 210, 215 (2d Cir. 1989) (prosecutors are responsible along with the Court in paying attention to *Tunnessen*).

IT IS SO ORDERED.

Dated: March 4, 2015
Rochester, New York



HON. FRANK P. GERACI, JR.
United States District Judge